IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR. JUSTICE S.ANANDA REDDY

WRIT APPEAL NO : 1627 of 2004

AND

WRIT PETITION No.21748 of 2003

WRIT APPEAL NO : 1627 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 16/10/2003 in W.P.M.P.No.27143 of 2003 in WP NO : 21748 OF 2003 on the file of the High Court.)

Between:

No 14558717-L HAV/ELECT, Devi Singh,
R/o.1 Training Battalion, 1 EME Centre, Secunderabad (AP).

..... APPELLANT

AND

1 The Commandant, 1 EME Centre, Secunderabad(AP).
2 The Commanding officer 4 Training Battalion, 1 EME Centre,

Secunderabad (AP).
3 The Commanding officer, 1 Training Battalion, 1 EME Centre,

Secunderabad (AP).
4 IC-34662-P LT COL PP NAIDU, officer Recording

Summary of Evidence in
R/o.HAV ELECT DEVI SINGH, 1 Training Battalion,
1 EME Centre, Secunderabad (AP).

.....RESPONDENTS

WRIT PETITION NO : 21748 of 2003

Between:

No.14558717-L HAW/ ELECT DEVI SINGH
R/O. 1 Training

Battalion, 1 EME Centre, Secunderabad.

..... PETITIONER

AND

1 The Commandant,
1 EME Centre,
Secunderabad, A.P.

2 The Commanding Officer 4 Training Battalion
1 EME Centre,
Secunderabad.
3 The Commanding Officer,
1 EME Centre, Secunderabad
4 IC 34662-P LT COL PP NAIDU
Officer Recording Summary of Evidence
R/o HAV ELECT DEVI SINGH ,1 Training Battalion, 1 EME Centre,

Secunderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to declare the action of the 3rd respondent herein in initiating a fresh DE-NOVO disciplinary action on the same set of events and charges which were the subject matter of previous trial by a summary court martial by constituting the 4th respondent herein as the Officer recording summary of Evidence as being unlawful, unreasonable and therefore ultra vires.

Counsel for the Appellant/writ petitioner: MR.CAPT.K.M.SAXENA

Counsel for Respondents: MR.A.RAJASHEKAR REDDY

(SC FOR CG)

MR. A. BHASKARA CHARY

The Court made the following order: (per Hon'ble TMK, J)

This writ appeal is filed against the interim order dated 16-10-2003 in W.P.M.P.No.27143 of 2003 in W.P.No.21748 of 2003 passed by a learned single Judge of this Court.

The above writ petition has been filed by the appellant/writ petitioner to declare the action of the 3rd respondent herein in initiating a de novo disciplinary action on the

same set of events and charges, which were the subject matter of previous trial by a summary court martial, by constituting the 4th respondent herein as the Officer for recording summary of evidence as being unlawful.

Through the impugned order dated 16-10-2003, the learned single Judge of this Court granted interim direction to the respondents not to proceed against the appellant/writ petitioner in so far as the second charge of the charge sheet dated 16-08-2003 is concerned, until further orders and in so far as the first charge is concerned, the respondents were granted liberty to proceed in accordance with law. Aggrieved by the same, the present writ appeal is filed by the appellant/writ petitioner herein.

Learned counsel appearing for the appellant/writ petitioner has submitted that it is a fact that the appellant/writ petitioner has preferred an appeal before the reviewing authority and the reviewing authority by the letter dated 23-07-2003 has advised to conduct the proceedings de novo, starting from hearing of charge in respect of the appellant/writ petitioner and also advised to prefer fresh charges against the appellant/writ petitioner based on the evidence adduced thereat. Pursuant thereto, the impugned charge sheet, dated 16-08-2003, has been issued.

Since the writ petition itself has been filed against the charge sheet, dated 16-08-2003, without any proceedings, we feel it appropriate to dispose of the writ itself at the time of the hearing of the writ appeal granting liberty to the appellant/writ petitioner to raise all the objections, raised in this writ petition, before the authority concerned during the course of enquiry, to be conducted in pursuance of the above said charge sheet.

With the above observation, the writ appeal and the writ petition are disposed of. No costs.

(T.MEENA KUMARI, J)

(S.ANANDA REDDY, J)

DATED: 27-01-2005

Note: Issue C.C by 02-02-2005.

B/o.

Vs/lvl

To

1 The Commandant,
1 EME Centre,
Secunderabad, A.P.
2 The Commanding Officer 4 Training Battalion
1 EME Centre,
Secunderabad.
3 The Commanding Officer,
1 EME Centre, Secunderabad
4 IC 34662-P LT COL PP NAIDU
Officer Recording Summary of Evidence
R/o HAV ELECT DEVI SINGH ,1 Training Battalion, 1 EME Centre,

Secunderabad

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